

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

July 9, 2008

\_\_\_\_\_  
No. 07-51374  
Conference Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

LUIS CARLOS ESCAJEDA

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:06-CR-2306-ALL  
\_\_\_\_\_

Before JOLLY, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Luis Carlos Escajeda raises arguments that are foreclosed by *Irizarry v. United States*, 128 S. Ct. 2198, 2203-04 (2008), which held that the district court is not required to provide notice prior to sentencing of its sua sponte intention to impose a sentence that is a variance from the recommended sentencing guidelines range. See *United States v. Mejia-Huerta*, 480 F.3d 713, 723 (5th Cir. 2007), cert. denied, \_\_\_ S. Ct. \_\_\_,

\_\_\_\_\_  
\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

2008 WL 2484735 (June 23, 2008). The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.